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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Initial reports submitted by States parties to the Covenant concerning rights covered by articles 10 to 12, in accordance with the second stage of the programme established by the Economic and Social Council in its resolution 1988 (LX)

Addendum

ECUADOR

[7 February 1989]

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I. GENERAL INTRODUCTION

1. The Government of Ecuador is pleased to submit this initial report on articles 10 to 12 of the International Covenant on Economic, Social and Cultural Rights.

2. When the colonial period ended and Ecuador acceded to independence, the guarantees provided in the Constitution and laws of the Republic concentrated first and foremost on those laws and principles which had inspired the struggle for emancipation and on those contained in the Declaration of the Rights of Man and of Citizens, proclaimed by the French Revolution, and which were in the same spirit.

3. At the end of the nineteenth century and the beginning of the twentieth, the excessive individualism which stemmed from this and other declarations helped to accentuate the inequality among men. Freedom, used skilfully, had given disproportionate importance to property and had conferred formidable power on those who employed the labour of others.

4. These circumstances were the genesis of an international movement that led to major amendments to the political constitutions of States, extending the ambit of guarantees of human rights by adding social, economic and cultural rights to civil and political rights.

5. Ecuadorian legislation has kept pace with the evolution of advances in human rights and has incorporated them in its various Constitutions and laws, taking into account the fact that man, the basic nucleus of society, should be protected and safeguarded by the State.

6. Modern law with its concern for reform took a firmer hold in the economic, social and cultural areas and this was reflected in the Ecuadorian Constitution of 1929, article 158 of which stated: "The enumeration of guarantees and rights set forth in the Constitution neither limits nor excludes any others inherent in the human personality or stemming from the principle of sovereignty and the republican form of government".

7. This principle, reflecting as it does, a desire not to curtail any right, is part of the Ecuadorian constitutional heritage. Furthermore, for the first time, the 1929 Constitution spells out, in addition to individual guarantees, those guarantees that concern the family, education, culture, the economy, work and social security.

8. International action by Ecuador has obviously reflected its own internal position. There is virtually no important international or regional instrument to which it has not given its support. In the cases of the International Covenant on Civil and Political Rights, the special declaration under the International Convention on the Elimination of All Forms of Racial Discrimination and the Pact of San José, it accepts the jurisdiction of the bodies created by these instruments in order to consider possible cases of infringement of or disregard for its provisions by the Governments of the Republic.

9. Article 44 of Ecuador's current Political Constitution simply ratifies the strong and traditional position of respect for the rights and fundamental freedoms of the individual when it lays down the following general rule: "The State guarantees all individuals, male and female, who are subject to its jurisdiction, free and effective exercise and enjoyment of the civil, political, economic, social and cultural rights enunciated in declarations, covenants, agreements and other international instruments in force".

10. In other words, in addition to the fundamental freedoms and guarantees recognized by the Constitution and the laws of the Republic, all inhabitants of Ecuador enjoy the rights set forth in more than 20 international human rights instruments to which Ecuador is a party.

II. INFORMATION CONCERNING ARTICLES 10 TO 12 OF THE COVENANT

Article 10

11. A comparative analysis will be attempted between on the one hand, the provisions of article 10 of the Covenant and on the other, Ecuadorian legislation and the prevailing situation in respect of the protection of the family, mothers, children and adolescents as well as the free consent of spouses in order to marry.

12. It must first be pointed out that whereas the family has always been considered as the basis and focal point of society and the State, as an institution it is subject to change. No human creation is eternal and the law follows the evolution of society and changes with it. Accustomed as we are to the contemporary idea of the family, primitive promiscuity and group marriages, marriage by abduction or purchase, or marriage with one's own brother or sister all appear immoral to us. To us, the matriarchy, polygamy, polyandry and the paternal link based on the patria potestas, of the Roman family are all aberrations. And yet, each family model was viable at a particular period in history.

13. In Ecuador, the liberal revolution of 1895 which separated Church and State and which in 1902, promulgated the Civil Marriage Act changed the very system of marriage that had been in effect until that time and consequently amended many other provisions in the Civil Code that only recognized religious marriage. In 1904, divorce was introduced and the law was expanded and improved by reforms that came into effect in 1904, 1910, 1912, 1935 and still more recently.

14. The abolition of religious marriage as a legal institution profoundly changed the concept of the family because it eliminated a series of degrees of kinship which existed only in the area of canon law. When kinship has no legal or economic effect, it is because it has lost much of its importance. Relatives who do not retain the right to maintenance or to intestate succession and who can, like any other outsider, contract marriage among themselves are no longer part of the family.

15. At present, the family in Ecuador is strictly limited to the ascendants, descendants and brothers and sisters. Other relatives are not legally recognized as family except and increasingly less so as far as "links of affection or social courtesy" are concerned.

16. The protection of the family was elevated to the level of a constitutional provision for the first time by the Political Constitution adopted by the Constituent Assembly of 1929. Article 131 reads as follows: "The Constitution guarantees all inhabitants of Ecuador the following main rights:

"Paragraph 19 - Protection of marriage, the family, and family property.

17. The law shall regulate the protection of motherhood and childhood. The annual budget shall include a special item for the protection of children in the most effective way. Illegitimate children also have the right to be brought up and educated by their parents, and to inherit from them in the proportion specified by law. The right to investigate paternity shall be established in the manner and the cases that the law shall determine. If there are no parents the State shall assume responsibility for providing suitable conditions for the optimum physical, intellectual and social development of illegitimate children".

18. Subsequently, the 1945 Constitution, under Title XIII, headed "Concerning individual guarantees", provides a special section, Section II devoted exclusively to the family, the text of which reads:

"Concerning the Family. Article 142. The State protects the family, marriage and motherhood.

Marriage is based on the principle of equal rights of both spouses. Marriage may be dissolved by mutual consent or at the request of one of the spouses, for the causes and in the manner determined by law.

Illegitimate children have the same rights as legitimate children, in respect of upbringing, education and inheritance.

The law shall regulate all matters related to filiation and its rights, and investigation into paternity. When a birth is registered, no statement shall be required on the type of filiation.

The family estate is inalienable and unattachable, and its extent and other conditions are governed by the law.

The protection of the physical, mental and moral health of children and the right of a child to education and to home life are guaranteed.

The State shall create suitable conditions for the development of minors who have no family or economic protection.

In penal matters, minors are subject to protective and non-punitive legislation".

READEX FICHE

19. The present Constitution, which has been in force since 1979, and was amended in 1984, also has an entire section and four articles on the family which read as follows:

> "Concerning the family. Article 22. The State protects the family as the basic unit of society. It guarantees the requisite moral, cultural and economic conditions for the achievement of its purposes.
>
> It also protects marriage, motherhood and family property.
>
> Marriage is based on the free consent of the contracting parties and on the principle of equal rights, obligations and legal capacity as between the spouses.
>
> The State protects the parents in the exercise of paternal authority and supervises the fulfilment of mutual obligations by parents and children. The latter shall have the same rights regardless of the nature of their filiation.
>
> When a birth is registered no statement has to be made regarding the type of filiation and when an identity card is issued it makes no reference to filiation.
>
> The family estate is recognized as unattachable and inalienable to the extent and under the conditions established by the law".

Article 23. The State safeguards the child from the time of conception and safeguards minors to ensure that they may develop normally and with security as to their moral, mental and physical health and home life.

Article 24. The State advocates responsible parenthood and suitable instruction for the advancement of the family; it guarantees the rights of parents to have the number of children that they are able to raise and educate.

Article 25. A stable and monogamous union between a man and a woman, free of any marriage ties with any other person, who form a de facto household for the period of time and under the conditions and circumstances established by the law, creates a joint estate, subject to the regulations governing conjugal joint property ownership in so far as those are applicable, unless a different economic system has been stipulated or a family estate constituted for the benefit of the children".

20. If one reads the Constitutions of 1929, 1945 and 1979, one will see a positive trend in State action, at the legal level, on behalf of family property, marriage and motherhood, as well as of minor children. Nevertheless, it may be well to study each of these aspects with some care.

21. Concerning family property, Ecuadorian law provides for the "family estate". This institution is relatively new in Ecuadorian civil law and was incorporated into it in the mid 1940s. Its only aim is to protect the rights of the family, and in particular, of children under age and who, because of their circumstances, need to be specially protected by the law.

22. The three main articles of the Civil Code concerning the family estate read as follows:

> "Article 852. The husband, wife or both together, if they are of age, have the right to found a family estate for themselves and for the benefit of their descendants with assets owned exclusively by them. Those assets shall be excluded from the ordinary system of conjugal joint property ownership and from any action by creditors".
>
> "Article 856. Any property forming part of the family estate shall be inalienable and not subject to attachment or mortgage ...".
>
> "Article 857. Such property shall likewise not be subject to division, commodatum, partnership, life annuity nor antichresis ...".

23. With respect to marriage, Ecuadorian law is very clear and demands that there should be a free and spontaneous consent by the contracting parties. The Civil Code defines marriage as a solemn contract "whereby a man and a woman form an indissoluble union now and for life, for the purpose of living together, having children and aiding each other".

24. Article 101 stipulates that the following formality is essential for the marriage: "3 (a) The statement of free and spontaneous consent by the contracting parties".

25. Under those circumstances, and in accordance with the provisions of article 96, if there is no free and spontaneous consent by one or both of the contracting parties when the marriage is celebrated, this provides grounds for annulment of the marriage if it stems from one or more of these causes:

(a) A mistake in the identity of the other contracting party;

(b) Mental illness which has caused a person to be of unsound mind;

(c) Abduction of the woman if, at the time the marriage was celebrated, she had not regained her freedom; and

(d) Grave and serious threats likely to create irresistible fear.

26. Any marriage between persons below the age of puberty shall also be null and void, in other words, if the male is under 14 and the female under 12. Persons who are under 18 may not marry without the express consent of the person who exercises patria potestad and if there is no such person, of the closest ascendants. If such consent is refused, they shall be entitled to have the cause of dissent stated and attested to before the competent judge. The marriage of a minor of 16 and over shall be valid even if the assent or permission of the ascendant who should give it has not been obtained. However the authority before whom the marriage ceremony was performed shall be removed from office.

27. The protection of pregnant women is one of the main concerns of the State. The Constitution, the Labour Code and the Compulsory Social Security Act envisage special measures for expectant mothers.

28. The present Constitution stipulates that all Ecuadorians are entitled to social security; this includes social insurance, which is intended to protect the insured person and his family in cases of sickness, motherhood, unemployment, disability, old age and death.

29. Article 18 of the Compulsory Social Security Act, stipulates that any insured woman "is entitled, during pregnancy, childbirth and the post-natal period, to the necessary obstetrical assistance and a cash subsidy.

30. The Labour Code, for its part, prohibits work by female staff two weeks before and six weeks after childbirth. It likewise prohibits withholding the wages of women during this period and stipulates that these wages must be paid in full.

31. Pregnant women may not be summarily dismissed nor evicted after they have become pregnant. If this should occur, the labour inspector shall order the employer to pay compensation to the worker equivalent to one year's salary, without prejudice to any other rights to which she is entitled.

32. According to the Juvenile Code, a pregnant woman also has the option of submitting a claim for pre-natal assistance. If an agreement is reached between the claimant and the defendant, the Juvenile Court will approve the agreement. Otherwise, and if the respective documentation establishes the obligation of the defendant, the court shall determine the amount of pre-natal assistance, which also extends to other areas, in accordance with the terms of article 37 of this Code which reads: "Protection of motherhood begins from the time that the pregnancy has been determined and includes payments for the care of the pregnant woman, assistance during the delivery, post-natal and lactation periods. These payments shall be determined on the basis of the economic capacity of the person required to pay and shall be made from the date on which the claim is made".

33. The Ecuadorian law is replete with provisions on child protection; with time, they have been enriched to give even broader and more effective protection in the civil, penal, labour and educational spheres. In other words, an attempt has been made to make child protection all-inclusive.

34. The evolution of the legislation on filiation has been entirely to the advantage of the rights and interests of minors. Until 1930, the Ecuadorian Civil Code, under the influence of canon law, classified children as legitimate and illegitimate and subdivided the latter into: (a) natural children, or those who had been recognized by their mother or father or by both; (b) the children of a wrongful union, in other words children born of an adulterous, incestuous or sacrilegous union; and (c) children who, not recognized either as natural or as having been born of wrongful unions, were simply illegitimate, in other words, those whose mother or father had declared under oath that they considered them illegitimate.

35. Natural children had some rights: (a) maintenance; (b) intestate succession if there were no legitimate children; and (c) like the other beneficiaries or heirs the right to be brought up and educated. If, however, there were legitimate children, natural children were excluded from the inheritance. Children who were simply illegitimate could only claim

maintenance and had no right to personal care, upbringing and education and still less to intestate inheritance. Children born of wrongful unions did not enjoy even the hint of a right.

36. In 1935, these outmoded laws were changed and as the result of an amendment that year, children were classified as legitimate and illegitimate, the latter being "those who had been voluntarily recognized as such by their mother or their father or by both, or those who had been declared thus by a court decision". Illegitimate children acquired more rights than natural children under the previous legislation. In other words, they maintained their rights to maintenance, upbringing and education, and also obtained the right to a share in the intestate inheritance of their mother or father even if there were legitimate children, although they only received a half of what the children born in wedlock received.

37. In the 1960s, further amendments were made to civil legislation under which children had the same rights with regard to surnames, upbringing, education and inheritance whether there were born in or out of wedlock.

38. In the 1970s all children were given exactly the same rights and the description of legitimate or illegitimate was abolished. Today the law recognizes only parents and children. Article 24 of the present version of the Civil Code confirms this step forward:

> "Filiation and the corresponding paternity and maternity shall be established:
>
> (a) By the fact that a person was conceived within the true or putative marriage of his parents;
>
> (b) By the fact that he has been voluntarily recognized by his mother or father, or both, if they are not married; and
>
> (c) If he has been legally declared the child of a particular mother or father."

39. The identity card which is carried by every citizen of the Republic merely indicates that the bearer is the son of such a father and such a mother.

Child protection is dealt with in a specific body of laws: the Code on Minors which has its own judges and courts. It would take a very long time to examine and comment on that Code and therefore only the main provisions will be cited:

> "Article 1. Every child under age is entitled to assistance and protection from the State, irrespective of family, social, economic, racial or religious circumstances.
>
> "Article 2. The Ecuadorian State assumes responsibility for giving special protection to all physically, morally or legally neglected minors and for advancing, by all possible means stability and family welfare.

"Article 4. The protection of minors shall be comprehensive and shall be exercised at all stages of evolution, including during the pre-natal and post-natal periods.

Within the framework of the protection outlined in the previous paragraph, this Code regulates the situation of pregnant women, in respect of protection during the periods of gestation, childbirth and lactation.

"Article 7. Cases concerning minors to be examined and on which a decision must be taken by the Juvenile Legal Service shall be treated as human problems and not as lawsuits; moral, social and biological considerations shall outweigh any other consideration."

40. The Code on Minors is structured as follows:

Book One: Concerning the protection of minors.

I. Fundamental precepts;

II. Concerning protection agencies, namely the National Juvenile Council, the Juvenile Legal Service and the Juvenile Protection Department.

Book Two: Concerning rights and obligations.

I. Concerning protection as a whole which includes: Protection of motherhood, children and the family; Care of pre-school children, schoolchildren and adolescents; Protection of children at work; Maintenance; Family placement; Adoption; Patria potestas and the protection of minors,

II. Concerning misbehaviour by minors and juvenile delinqency;

III. General provisions.

Book Three: Concerning procedure. Rules of procedure come under two headings: Heading I, which contains general regulations governing the competence of the National Juvenile Court and the juvenile courts, regulations for settling conflicts of jurisdiction between juvenile courts and ordinary courts, the essential procedures in cases referred to juvenile courts which must hand down decisions on "the basis of their own heartfelt belief".

41. Heading II of this third book deals with special procedures and contains the following chapters: I. Care of pre-school children, school children and adolescents; II. Child labour; III. Pre-natal protection; IV. Maintenance; V. Family placement; VI. Adoption; VII. Patria potestas; VIII. Custody of minors. Heading III contains the rules of procedure for trying cases of "misbehaviour by minors and juvenile delinquency". It has two chapters, one containing general rules and another dealing with "the traffic and illegal use of narcotics and psychotropic substances". Heading IV sets forth the "general provisions" governing the work of the Juvenile Legal Service, which must attempt to bring about the "reconciliation of the parties, [always] in the

interests of the minors", as well as the procedure to be followed for applications to the service concerning the custody of minors, maintenance or pre-natal assistance. The fourth book of the Code on Minors deals with the organization of the Juvenile Legal Service which, basically, has one National Juvenile Court that exercises jurisdiction throughout the country and constitutes the final court in matters of child protection and the juvenile courts which have provincial jurisdiction.

42. In addition to the rules included in the Code on Minors, the Labour Code also contains a chapter dealing with work by women and children.

43. Concerning children. Articles 135 and 152 lay down a series of prohibitions, restrictions and regulations on child labour. Thus, for example, it prohibits any kind of work by children under 14 for another person. Nevertheless, in exceptional cases and with the permission of the juvenile Court, children between 12 and 14 may be allowed to work "provided proof is given that they have completed the minimum school education required by the law or that they attend night school or some primary education establishment". Night work for children under 18 and work in industries or work which is considered dangerous or unhealthy are also prohibited. For children employed in carrying loads, the following restrictions are observed: boys up to 16: 35 pounds; boys from 16 to 18: 50 pounds; women up to 18: 20 pounds. Children under 18 and over 15 are not allowed to work for more than 7 hours a day and 35 hours a week. Children under 15 may not work for more than 6 hours a day and 30 hours a week.

44. Children under 18 who have not completed primary education are entitled to be allowed two hours a day by their employers off work in order to attend school.

45. As has already been said in criminal matters, minors are subject to special legislation, namely that of the Code on Minors, which is protective rather than punitive.

46. The mother and father are required to provide maintenance for their children. This obligation includes meeting their needs in respect of food, accommodation, education, clothing and medical care. If the parents are unable to or prevented from doing so, the persons in the following order shall be required to maintain the child: the paternal or maternal grandparents, brothers and sisters, aunts and uncles.

47. These provisions of the Code on Minors demonstrate the State's concern to ensure that the most basic needs of the child are met. In order not to leave unprotected, perhaps the weakest member of society, and therefore requiring most protection, article 61 of the Code also specifies that the Juvenile Court shall fix a maintenance allowance, provided that it believes that the person from whom it is claimed is the father or mother of the child, even though he or she may not be entered as such in the civil register. Obviously, the setting of a maintenance allowance does not of itself constitute proof of parenthood.

48. The Political Constitution now in force, for the first time, provides protection and legal recognition not only for the legitimately constituted family but also for a family formed by "a stable and monogamous union of a man and a woman".

49. It seems fair that this step should finally be taken because the existing census information shows that around 43.4 per cent of women of child-bearing age are married; of the remaining 56.6 per cent, 32.6 per cent are unmarried, 7 per cent are widowed and divorced and 17 per cent are living in concubinage.

50. Noticeable progress has not, however, been confined to the legislative sphere which will be analysed subsequently - but was also made in the institutional framework of the State at the end of the 1970s when the Ministry of Social Welfare was established "as a public sector body and agency with responsibility for formulating, directing and executing social policy, in a systematic manner, in the spheres of social security, child protection, co-operatives, community development and social welfare".

51. A technical report drafted by UNDP in 1984 stated: "The activities of the Ministry in its brief existence have been directed towards establishing a national co-ordination system to deal with social problems, by strengthening the family, the care for juveniles and the elderly and the guidance and protection of juveniles, especially through non-traditional methods. In this way it is continuing to strengthen quantitatively and qualitatively child rehabilitation and protection centres and to review and amend the laws governing these groups".

52. There is no doubt that one of the serious problems faced by social policy as it seeks to extend its coverage is the scarcity of financial resources. In six years, the social sector's share in the State budget has declined from 43.7 per cent in 1980 to 30.7 per cent in 1986. This 30.7 per cent is distributed among the various sectors in the following way: employment 0.7 per cent; education and culture 15.5 per cent; health and social welfare 13.8 per cent; food and nutrition 0.2 per cent and social activities 0.5 per cent. There is a very simple but painful reason for this. A steadily increasing volume of the resources of the State have to be used to pay off Ecuador's foreign debt. The country's official debt which stood at $693 million in 1976 has increased more than 10 times to $9,600 million in 1987. In 1982, external debt servicing had already exceeded export earnings and today is equal to five times the value of those exports.

53. Furthermore, State revenue has declined on account of the floods in 1983 which crippled agricultural production and the earthquake in March 1987 which destroyed the oil pipeline and prevented the sale of oil which provides 70 per cent of budget resources, and finally the sudden fall in oil prices on the international market from almost $30 a barrel to $8, $10, $12 and at present $16.

54. The external debt is a burden which weighs heavily on the Ecuadorian people and clamours for an urgent, fair and reasonable solution. More than an economic imperative, it constitutes today a political and moral necessity.

Article 11

55. Under article 19 (14), of the Constitution, the Ecuadorian State guarantees the individual, inter alia, the right "to a standard of living that assures health, food, clothing, housing, medical care and the necessary social services". This guarantee was already provided in the Political Constitution of 1945, in other words more than 40 years ago.

56. At the regional level, norms explicitly set forth in the Charter of the Organization of American States (OAS) guarantee the right to enjoy adequate material welfare in conditions of freedom, dignity, equal opportunity and economic security. Ecuador, as a member of SELA (Latin American Economic System), signed the Constitutive Act of the Action Committee on Regional Food Security (CASAR), the aims of which are to increase agricultural production and productivity and to improve supplies and eliminate nutritional deficiencies in the countries of the region; in order to meet these targets, under Executive Decree No. 1885 of 6 July 1983, the Co-ordinating Committee for Regional Food Security Projects was created in 1983. Subsequently, in 1987, Ecuador decided that it was necessary to implement the Treaty on Reciprocal Assistance for Food Emergencies (TAREA). At the subregional level, the José Selestino Mutis Andean system was formed on agriculture, food security and environmental protection, under which the member countries undertook to obtain a higher level of food security, especially for the low-income Andean population.

57. Ecuador is now endeavouring to set up the National Technical Secretariat for Food Security. The national system to monitor the food balance and the national food plan are being executed and constitute a set of policies and programmes designed to solve the problems of food security. Similarly, the national food and nutrition system was established by Executive Decree No. 382 of 21 December 1984. The Agricultural Products Exchange was established in order to improve the marketing of agricultural produce, especially commodities. Also, the activities of ENAC and ENPROVIT are contributing to nationalizing urban and rural trade in food products at both the wholesale and retail levels.

58. ENPROVIT is the National Essential Foods Enterprise with distribution centres throughout the country. Its main aim is to sell essential foods at lower than market prices.

59. ENAC is the National Storage and Marketing Enterprise, the fundamental aim of which is to supply retail dealers with produce purchased directly from producers and thus to eliminate as far as possible the chain of middlemen who push up the prices of the produce they supply to the consumer.

60. To the extent of its economic capacity, the Government has started operating a network of silos and warehouses on the coast and has encouraged initiatives for forming warehousing companies. The Agricultural Technological Development Programme (PROTECA) was devised to assist in the production of certified grains and to improve technical assistance to farmers.

61. Finally, Ecuador has requested FAO co-operation in order to implement the "Technical assistance for strengthening food security in Ecuador" project (support for marketing of agricultural produce entrusted to ENAC and ENPROVIT). The country has also requested support from the World Bank and the FAO for the implementation of the "Project for agricultural marketing development".

62. Article 22 of the Constitution itself, states that "The State shall protect the family as the basic unit of society, it shall guarantee the requisite moral, cultural and economic conditions for the achievement of its purposes". Furthermore, article 30 states that the Ecuadorian State shall

contribute to the organization and promotion of the various sectors of the population, especially the peasant sector, in the moral, cultural, economic and social spheres, offering them effective participation in community development. Hygienic and inexpensive housing programmes are also encouraged. The same article makes provision for allowances for persons who are without resources, and are not in a position to acquire them or for whom no person or entity is required by law to provide them.

63. In order to ensure that the family enjoys such rights, a minimum living wage has been established and is periodically adjusted to the real cost of living to ensure that incomes meet the vital needs of the Ecuadorian family. Additionally, three additional wages are envisaged for both the public and private sectors, and will be paid in full to workers with few resources and to a lesser degree to those who have more resources. Workers and employees of private companies are entitled to be paid 30 per cent of the annual net company profits.

64. The Inter-agency Inflation Committee operates under the National Development Board and its function is to study and propose alternatives for regulating and controlling inflation in the prices of the main agricultural produce. The Committee decides whether prices have increased excessively, it identifies the causes and suggests measures such as: the dissemination of information to consumers, price controls through provincial offices which depend on the central government and intervention in marketing through ENAC and ENPROVIT. Pricing committees operate in the provinces and have similar objectives. The Ministry of Agriculture also maintains a pricing and market information scheme.

65. An Agricultural Produce Exchange was established on 26 December 1985 and conducts marketing operations under a free competition system, in order to help to make the market in agricultural produce transparent.

66. There is also the "Urban and rural supply project" which has been submitted to the National Development Board for consideration, and will be implemented under the auspices of FAO and the Governments of friendly countries. The project will supply essential food items to production centres for shipment to consumer centres, especially in disadvantaged areas. Its aim is to reduce marketing costs and to bring producers and consumers closer.

67. In an interesting survey of the social policies pursued in Ecuador, an eminent university professor contends that whereas in the early years of the Republic, more than 80 per cent of the country's population was concentrated in the mountains, during the present century there has been a population explosion on the coast, fuelled substantially by interregional migration; this has created a balance between the population in both regions. At the same time, there was accelerated settlement in the eastern region, because large oil deposits were discovered in that area.

68. He also points out that since Ecuador is a small country with a surface of only 270,790 km^2 and with a population of approximately 10 million inhabitants at the present time and a density of 35 inhabitants per square kilometre, it is the most densely populated country in South America. Its demographic growth rate, despite a slowing down in recent years, is still high at 2.9 per cent per year. At the beginning of the 1980s, the population which

historically had been predominantly rural, began to settle in the urban sector. With a percentage slightly higher than 50 per cent, this phenomenon is expected to become more acute in the future and the urban population will acquire greater importance.

69. Ecuador is probably one of the richest countries in the world in terms of internal migrations which have balanced out and harmonized the spatial distribution of the population. It is a nation of travellers, and the horizontal movement of the population has been the most important source of social integration and of economic, social and cultural behaviour. In contrast, however, in Ecuador there has been little upward mobility because of structural historical patterns linked mainly to the structure of agriculture, land tenure and use. Because there were no far-reaching changes in the economic structure, upward mobility did not become a method of social integration as did the extraordinary horizontal mobility.

70. These contradictory phenomena have meant that there were no major collective claims such as an agrarian revolution, by the masses because the extraordinary natural wealth and the ebb and flow of internal migrations did not allow the population to organize itself to meet the challenges of social change. Furthermore, the low levels of income in the overpopulated mountainous area meant that the migration to the coast in seach of a better life, which generated expectations of export production, prevented the population from meeting the challenge of making its own history of social change. Instead change was locked into the dynamics of the external market, into the emergence of towns almost by inertia, into the urban-ruraldynamics which favoured the production of cocoa, coffee, rice and bananas and into the relative democratization of land use for banana production, with the small landowner co-existing with the medium-sized and large land holders.

71. To sum up, the new wave of settlement was a factor that postponed the alternatives of an in-depth agrarian reform or revolution. Nevertheless, such an alternative occurred at the beginning of the 1960s. It was a legal and orderly process and was implemented through special laws enacted by the Ecuadorian State. A brief summary of Ecuador's achievements in this area is given below.

72. State policy regarding agrarian reform is set out in the new Constitution together with the structure of property in the rural sector. The aims are: economic development, an improved standard of living and the redistribution of wealth and income. The Constitution prohibits the buying up of land and the formation of large estates, encourages the integration of units of production and concentration through the elimination of smallholdings and at the same time, promotes community and co-operative production. The Agrarian Reform Act was passed in 1964 and amended in 1973 and there is now an Ecuadorian Agrarian Reform and Settlement Institute under the Ministry of Agriculture. Consequently, advances have been made in the social aspects of land tenure and efforts are also going ahead, especially in the area of technical and credit co-operation, in order to achieve progress in the economic aspects of improved productivity, so as to achieve a rate of food production that is higher than the population growth rate. The process of agricultural reform is a complex one and is being continuously revised and extended because the living conditions of the peasants who make up a high percentage of the national population obviously need to be improved. Efforts are therefore being made to

improve the peasants' living conditions in respect of health, housing and education in order to make the life of this population group more attractive and stem the rural-urban migration.

73. The principal method available to the indigenous population and to the population as a whole, in order to assert their rights, is to request the assignment of lands that they have in their possession or lands that are lying idle. Such a situation must be reported to the appropriate Regional Governor (articles 16, 38 and 94 of the Agrarian Reform Act).

74. Once the studies have been carried out in accordance with the provisions of the Act, the Regional Governor takes a decision. That decision, depending on the status of the lands, may take any of the following forms of assignment: expropriation, reversion or annulment of the right of ownership (articles 46, 48 and 49 of the Agrarian Reform Act). When the case is being heard, if the defendant (the alleged owner) does not produce any deeds of ownership, the Regional Governor shall declare that he is not the owner of the property (article 96 of the Agrarian Reform Act). In areas of the Rio Guayas Basin devoted exclusively to growing rice, Supreme Decrees No. 1001 and 840 of 15 December 1970 and 14 October 1975 repectively were applied and all estates on which there are casual workers in rice growing areas were thereby expropriated.

75. Through such legal mechanisms, land becomes State property and the administrative procedure continues in the form of adjudication (legalization of land tenure) for which purpose potential beneficiaries must comply with specific requirements set forth in the Agrarian Reform Act (articles 74, 83 and 84). The minimum number of hectares that constitute an appropriated agricultural holding, is set by the Ministry of Agriculture on the basis of the productivity levels projected in the relevant surveys (article 41 of the Agrarian Reform Act).

76. Housing is one of the most urgent problems that Ecuador, like all the developing countries, has to tackle. The problem has been aggravated by the mounting pressure on the urban infrastructure on account of the migration from the countryside to the city. It must therefore be placed in the broader context of development, which presupposes a master plan in which all projects are integrated. This report contains an annex on the main problems, policies and measures in the housing sector, appearing in the 1985-1986 National Development Plan formulated by the National Development Board (CONADE).

77. The total housing deficit is high and affects 68 per cent of the rural areas and 61.4 per cent of the urban ones, according to 1982 data. Nevertheless, because of the peasant migration and the emergence of urban slums, housing is increasingly becoming an essentially urban problem.

78. A total of 48,000 units were handed over during the period 1974-1981, and 72,000 solutions were provided during the period 1984-1987. An analysis of the quality of dwellings offered States that "70 per cent originate in the informal sector, and consist of houses that were mostly built without official permits and self-built housing". Another 30 per cent fell within the so-called formal sector. In this formal sector, 75 per cent of the dwellings provided were financed mainly by the public sector, through the Social Security Institute and the Ecuadorian Housing Bank, and the remaining 25 per cent by the private sector, through the system of mutual benefit

societies that uses the savings of their members. It should be stressed that the loans granted by the Institute, the Housing Bank and the mutual benefit societies charge lower interest rates than the market, are long-term - usually 30 years - and are guaranteed tax relief which in case of the death of the borrower allows the dwelling to be transferred freely to his heirs.

79. With respect to demand, the housing problem is directly related to the issues of income, wages, employment and the management of the financial system. The generation of sufficient income and the availability of credits with low interest rates are essential conditions for a solution which takes account of the fact that the problem is a social one. Despite their limited incomes, Ecuadorian public bodies try to provide credits which are within the reach of the poorer strata of the population and who need to have stable employment and an adequate wage.

80. With respect to supply, self-built housing continues to play an important role both in the countryside and in the marginal urban areas. In order to improve the quality of housing in this sector, the State must provide support in the form of the necessary inputs at reasonable prices and indispensable public services such as drinking water, electric lighting and sewerage.

81. The Ecuadorian State is faced with a challenge, which it lacks the economic capacity to overcome; still it is one that must be faced squarely. The organization, mobilization and sensitization of the people might be the most appropriate means of finding alternative solutions that are not exclusively assistance-oriented. Joint efforts must be made by the State and the population groups to find solutions that will satisfy the basic needs of the population. This is the avenue through which to channel national efforts to deal with the overwhelming economic crisis now besetting Ecuador as a result of its large foreign debt.

82. The question of housing will be dealt with more fully in the next report submitted by Ecuador.

Article 12

83. The political Constitution of Ecuador gives pride of place to safeguarding the health of its people, because only if a population is healthy can it fully enjoy civil and political rights as well as the economic, social and cultural rights which are every man's due.

84. Article 19 of the Constitution states that without prejudice to the rights required for the full moral and material development to which every person is entitled, the State guarantees "the right to a standard of living that assures food, clothing, housing, medical care and the necessary social services". Section IV, article 29 (2) states that all Ecuadorians are entitled to "health care whether they reside in the city or in the countryside ...".

85. Ecuador joined the other countries of the Andean region in 1971 in signing the Hipólito Huanue Convention on Co-operation in Health, article 4 of which states that the signatory States shall ensure that the national legislation of all the member countries incorporates, specifically, the right to health, at the same time reasserting the responsibilities that devolve upon each State to make available the resources which would allow comprehensive health services to be extended to the entire population.

86. Public health care is primarily the responsibility of the Social Security Medical Service, for public service and private sector employees, and, of hospitals, health centres and clinics under the Ministry of Health for the rest of the population. Both the Institute of Social Security and the Ministry of Health provide free medical care to persons who request it.

87. Since September 1960, there has been a National Child Board. In 1985, with technical and financial support from AID, it became the National Child and Family Institute. It has discontinued the individual assistance-oriented activities of its initial phase and has become an agency that promotes new initiatives, co-ordinates and sponsors the activities of public and private institutions for the support and protection of the rights of the child and the family, especially in the sector of health protection.

88. Infant mortality programmes, in which the mother-child binomial has a central role, occupy a major place in public health policy. These programmes have had satisfactory results since, for example, the infant mortality rate has fallen from 105 per thousand live births in 1974 to 70 in 1986. During the same period, the maternal mortality rate also declined from 1.6 to 1 per thousand.

89. The measures taken and the policies followed by the Ministry of Health to encourage, provide for and protect child health are described in detail below.

Measures to reduce stillbirth and infant morbidity rates

90. The magnitude of the problems and the needs of the children which are revealed in the high infant morbidity and mortality rates have made it necessary to provide comprehensive health care at a minimum level of efficiency and with the widest possible coverage. That is the goal of the Health Promotion and Protection Department through its Maternal and Child Welfare, Nutrition and Community Development Divisions.

Programme targets

91. To reduce the infant mobidity and mortality rate by meeting children's biological and psycho-social needs during their growth and development and to extend the coverage of the services, by continuously upgrading the quality of child care through strengthening and maximizing health service capacity.

Child care

92. This comprises the range of health services that monitor the growth and development of the child, provide food supplements to children in danger of malnutrition or who are undernourished, and attend to diarrhoeal diseases and acute respiratory infections and immunizations.

Evolution of activities

93. Food Aid. In 1974, the Ministry of Health began its mother and child food assistance programme (PAAMI) to reduce the malnutrition prevalent among the most vulnerable groups through the distribution of a food supplement through the health units.

94. Extended immunization programme (PAI). This programme was started in 1977 in three provinces and was gradually extended countrywide in 1980. It includes simultaneous vaccination against the following diseases: tuberculosis, diptheria, whooping cough, tetanus, poliomyelitis and measles and is administered through home visits, intensive vaccination campaigns in health units and small centres in marginal rural and urban areas and vaccinations in health operative units on a regular basis.

95. Diarrhoeal disease control programme. This programme was started in 1977. Because diarrhoeal diseases are the main cause of infant mortality, it was decided to implement the oral rehydration therapy by supporting preventive activities related to health promotion and education.

96. Acute respiratory infection control. Since 1986, this programme has been taking control and preventive measures to combat this major cause of infant mortality.

97. Infant survival (PREMI). The plan to reduce infant disease and death (PREMI) was started in 1985. Its aim is to help to reduce infant morbidity and mortality rates by providing comprehensive immunization and oral rehydration services, by promoting breast-feeding, supervising growth and development and gradually controlling acute respiratory diseases through various different public and private institutions and with community involvement.

98. The situation today. The unremitting efforts of the Ministry of Health have helped to sustain the sharp downward trend in infant mortality. From 1960 until now the infant mortality rate has been reduced from 110 to 43 per 1,000 live births (figure 1) (INEC: rate adjusted to 1986).

99. The distribution of infant mortality also reflects a considerable change, with intestinal diseases and diseases which can be prevented through immunization held in check. The coverage of care provided has changed slightly, as has the care of children below one year, which was 48 per cent in 1979 and is now 52 per cent. There has also been a remarkable increase in immunization from 1983 to the present (table 1 and figure 1).

TABLE 1

IMMUNIZATION COVERAGE FOR CHILDREN UNDER ONE YEAR

ECUADOR 1983-1986

BCG-first vaccination	85%	92.7%
Polio	32%	43.3%
Diptheria	31%	43.3%
Measles	39%	49.4%

100. There has also been an increase in the coverage of diarrhoea attacks from 18 per cent in 1983 to 30 per cent in 1986. With the implementation of PREMI, there has been a considerable transfer of know-how to the community on the child programmes run by the Ministry and the care that the mother and family should give the infant. Activities to monitor the growth and development of the child and to promote nursing and educational nutrition are being extended.

101. The right to a healthy environment is a part of good health and is safeguarded by article 19 (2) of the Constitution which guarantees "the right to live in an environment free of pollution. It is the duty of the State to ensure that this right is not impaired and to ensure that nature is preserved ...". In order to improve the level of health of the population, the countries of the Andean Group, namely Ecuador, Peru, Bolivia, Colombia and Venezuela, have undertaken "to encourage studies and to draft legislation and formulate surveillance programmes to prevent water, soil and atmospheric pollution.

102. In the matter of occupational hygiene, the relevant Ecuadorian legislation endeavours to protect the health and rights of the worker. Occupational safety and hygiene departments ran by specialist doctors are operating in the capital and in all the provinces under the Ministry of Labour. The Ministry can order the shutdown or closure of places of employment or factories which are injurious to the health and safety of workers or which do not observe the relevant regulations laid down by the competent authorities.

103. Labour inspectors, officials of the Ministry of Labour, demand particularly compliance with the following rules:

(a) Work premises shall be adequately lighted and ventilated and shall always be kept clean and free from any infectious emanation.

(b) There shall be a technical inspection of the humidity levels and the atmospheric conditions in the workshops.

(c) Periodic inspections shall be made of the machinery used in workshops.

(d) Factories shall be equipped with the health services that the health authorities prescribe.

(e) There shall be a check to ensure that the worker is registered with the Social Security Institute and issued with his health card.

(f) Workers shall be provided with masks and other protective equipment. Ventilators, fans and other mechanical devices, to prevent diseases caused by emanations of dust and other impurities that may be inhaled by the workers in amounts injurious to their health, shall be installed in factories where such emanations occur.

(g) Workers who are required to carry out physical work on a regular basis which, in the opinion of the risk control committees of the Ministry of Labour, may cause abdominal hernia shall be supplied with orthopaedic supports.

104. Any worker who fails to abide by the security, protection and health measures required by the law, the regulations or the competent authority, or who disobeys without justification, a medical prescription or order may have his employment contract terminated.

105. The indemnities to which the worker is entitled when he suffers from occupational diseases are prescribed by the Labour Code. The Ministry of Health takes measures against endemic and epidemic diseases. The programmes already carried out will be fully discussed in a subsequent report.

106. Before concluding this brief description of Ecuador's achievements in the area of health, a number of statements made in a document published by the Institute for Social Studies in 1987 should be noted:

(a) The health of the Ecuadorian population has improved significantly over the last 25 years. The expectation of life at birth has increased, the coverage given by the health infrastructure has been broadened and the likelihood of death by certain diseases has declined.

(b) The incidence of ill health is significantly higher in rural than in urban areas, because drinking water supply, health infrastructure, housing and nutrition are of a higher quality in the urban areas.

(c) Expenditure on public health, including the drinking water supply and sewerage systems has remained at around 2.6 per cent of the GNP and 6 per cent of total public expenditure at the end of the 1970s, which means that it shared in the overall economic growth of that period. Nevertheless, the information available indicates that between 1975 and 1980 around 90 to 95 per cent of the expenditure on public health was concentrated in the urban areas, with 60 to 70 per cent earmarked for therapeutic care (hospitals, health centres, etc.).

(d) The health care system continued to expand between 1979 and 1983; the ratio of medical personnel per 10,000 inhabitants increased from 21.1 to 21.3 and of doctors from 8.3 to 11.4. In the case of public service doctors, the ratio increased only from 3.3 to 3.7 between 1979 and 1983. The number of health care centres increased by 248; the majority belong to the so-called health clinics (211), which are located in peripheral urban areas and rural areas. The number of hospital beds per 10,000 inhabitants fell from 9.8 in 1979 to 9.6 in 1983.

107. Starting in 1970, Ecuador, like many other Latin American countries, implemented a series of measures to extend health service coverage, following the guidelines set out in the 10-Year Plan of the Americas and the World Bank report on health sector policy (1972) which noted the insufficient coverage by services and the existence of serious health problems.

108. The extension of medical services in Ecuador, primarily by incorporating nursing and medical assistants and, to a lesser degree other types of health workers, has helped to provide better services for the population. Unfortunately, the number of consultations in respect of care and rehabilitation has not increased to any great extent and has remained at around one consultation per inhabitant per year.

109. Health problems and medical services are related to the poles of development and underdevelopment in the country. The most populous areas have the best health infrastructure and human resource coverage.

110. Consequently, the Ministry of Health has tried to improve the health services provided in two basic ways: on the one hand, by strengthening the health plans and programmes targeting the high risk groups and, on the other, by developing a comprehensive approach which redefines medical practice in the country in global terms.

111. The disparity between the increase in the services and resources allocated to the health sector and the slight increase in services provided per inhabitant denote the existence of problems in planning, administering and implementing health measures. The Ministry of Health has been making considerable effort in two major areas to correct this, in the form of increasing integration of the plans and measures designed for units of lesser complexity, called "local programming" and of developing a process of functional regionalization of its health services. These two efforts mean that priority is being given to strengthening the Ministry's administrative structure and updating planning, evaluation, control and follow-up techniques.

112. Furthermore it was considered important to strengthen prevention activities in the following ways:

(a) Extending vaccination coverage;

(b) Continuing the education of the population by establishing broader guidelines that offer a comprehensive view of the problems;

(c) Encouraging community participation in the management of health services using existing organizations;

(d) Encouraging the formulation of national policies to promote the development of the most depressed areas of the country, where there are the most serious health problems.

It is also important to develop plans and programme for comprehensive health care, including those described in the relevant section.

113. It is logical that if health is regarded as a constantly changing factor like other elements of national life, this means that methods must be devised for the timely identification of health problems and changes in time, space and in the groups of persons affected. This changing situation calls for a permanent system for recording information, to be used and interpreted on a continuing basis as well as the development of specific research programmes making for a more thorough awareness of individual problems.

114. The Ministry of Health is developing a number of activities which, if supported by a better knowledge of the situation, will help to overcome the health problems of the population; some of these problems are described in the annex.

ANNEX

PRIORITY DEVELOPMENT PLANS AND PROGRAMMES

The Ministry of Health is endeavouring to come to grips with health problems by implementing and developing a series of plans and programmes, the most important and representative of which are described below.

1. AWARENESS OF THE SITUATION

1.1 Improvement and development of an information system that can be used in an expeditious and timely way by all levels of the health system. Although there has been technological progress with the use of computers, it has not been fully accessible to and utilized by the officials who run the health programmes.

1.2 Research into the health situation and its root causes, as well as the identification of high risk groups, using techniques of analysis and interpretation of documentary information, routinely gathered by the national statistics systems and from specific projects.

1.3 Development of techniques, methodology and processes to evaluate the different activities implemented for the operations of the planning and management system.

2. PRIMARY PREVENTION

2.1 To promote an improvement in the quality of care for mothers, by upgrading the network of services. To provide a uniform standard of health care at all levels through early risk identification and upgrading of the reference and cross-reference system. If this programme becomes operational, maternal and infant morbidity and mortality rates will be reduced.

2.2 Continuous monitoring of the child's weight and size using instruments and standardized measures, with a view to building up a system of nutritional surveillance, enabling vulnerable groups and potentially decisive factors to be identified and nutrition programmes evaluated.

2.3 The prevention of diseases that can be prevented by immunization, by extending coverage with vaccines through an extensive immunization programme. In order to do this, the cold chain and personnel training must be expanded and improved and modern techniques of social communication used in order to motivate the population and develop a biological control mechanism.

2.4 Community education programmes which stress prevention, that apply modern social marketing techniques, explore new methodological alternatives in communications and information side-by-side with preparing educational materials for mass distribution.

2.5 Programme for disaster preparedness for which a central technical unit must be set up to implement the relevant strategies, education programmes on measures to be taken in case of emergencies, the forming of community teams and the establishment of rules to be followed in case of disaster.

3. SECONDARY AND TERTIARY PREVENTION

3.1 Programme of activities to control the diseases that occur most frequently including, in particular, the control of malaria and other diseases transmitted by vectors, for which the characteristics and distribution of the vectors, their reaction to insecticides and those of the other parasites and their response to specific medication must be identified.

In order to carry out this programme, the monitoring system needs to be modernized; all health services must be integrated and there must also be intra- and inter-sectoral co-ordination.

3.2 The other epidemiologically important pathological phenomena require a multidisciplinary and multisectoral approach to make for a better understanding of the problem and active participation in developing the strategies proposed for combating these epidemics. Emphasis should therefore be placed on educating the community about the preventive measures and corrective steps that should be taken.

Depending on the pathological phenomenon in question, a number of specific measures should be considered. For example, in the case of enteritis and diarrhoea, priority will be given to oral rehydration therapy, through the formation of specialized units and improved training of health professionals by introducing these techniques into their curricula.

The control of acute respiratory diseases is being tackled by standardized diagnostic and therapeutic components as well as the free distribution of adequate amounts of medicines, whose quality has been verified.

3.3 Tuberculosis is another major epidemic of which there is a high incidence. Its diagnosis deserves special attention, with a satisfactory network of laboratories, therapeutic equipment and round-the-clock surveillance of courses of treatment and control of contacts.

3.4 The outbreak of a new epidemiological phenomenon of extraordinary seriousness, namely AIDS, has elicited an urgent response from health institutions to devise ways and means of disseminating information about the disease and to produce collective prevention methods. Attempts are being made to identify cases and healthy carriers, to assess the magnitude of the problem, to ensure that blood and its derivatives for human use are free from the HI virus, to improve the diagnostic ability of the health services by a larger network of specialized laboratories, and so forth.

4. TRAINING OF HUMAN RESOURCES

4.1 Planning human resources in health so that operative capacity is adjusted to the supply of new university-trained professionals and to deploy these persons better by giving priority to those areas where the health problems are most acute.

4.2 The development of a comprehensive teaching-aid integration programme so that early links will be established between students and care components of the service programmes. Changes to the curricula in the Medical Faculties will be made by conducting seminars attended by students from various institutions.

Extension of the rotation system for internees to other disciplines, thus enabling the health team to be integrated into medical services and the organization of a human-resource training system in which students are placed at different levels, depending on the complexity of the duties that they have to perform.

5. INSTITUTIONAL DEVELOPMENT

Development of the administrative structure, incorporating new techniques in the planning, supervision, evaluation and follow-up of health measures.

Development of functional regionalization and comprehensive local planning in health matters, in order to make better use of services. This will be done by identifying the high risk factors and groups at the local level and, on the basis of this information, proposing solutions in terms of programming service activities. This approach will make it feasible to build up a network of services at different hierarchical levels, so that the system has a base that is relatively technically and administratively self-sufficient and able to satisfy the majority of the needs within its jurisdiction. At the same time, the approach will make it possible to establish a two-way reference system for solving more complex problems. At the higher levels of the structure, the system will be backed up by the relevant regional structure in each provincial district and this in turn will have its corresponding higher level in the national reference structure.

Figure 1

EVOLUTION OF THE INFANT MORTALITY RATE

ECUADOR 1960-1985

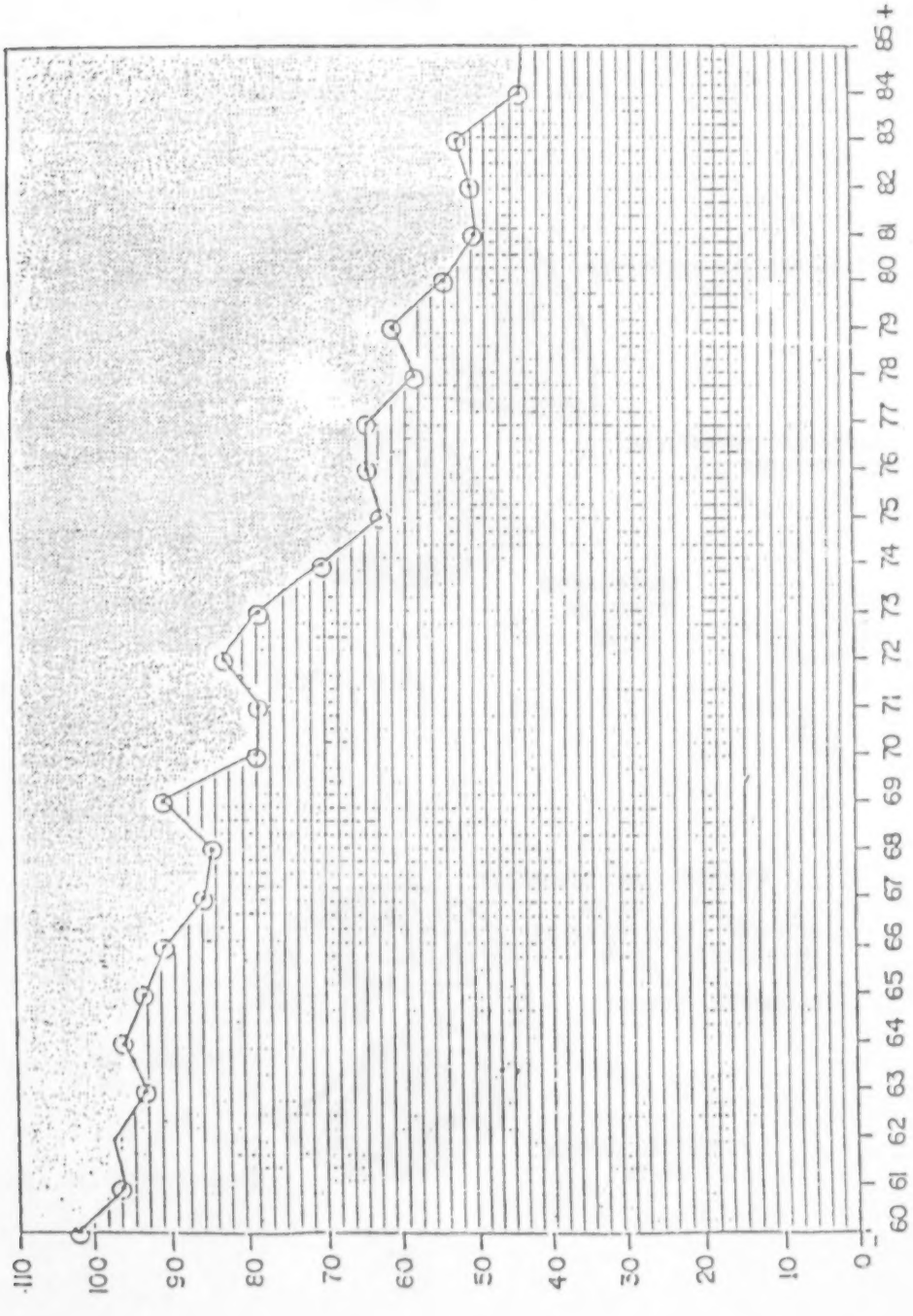
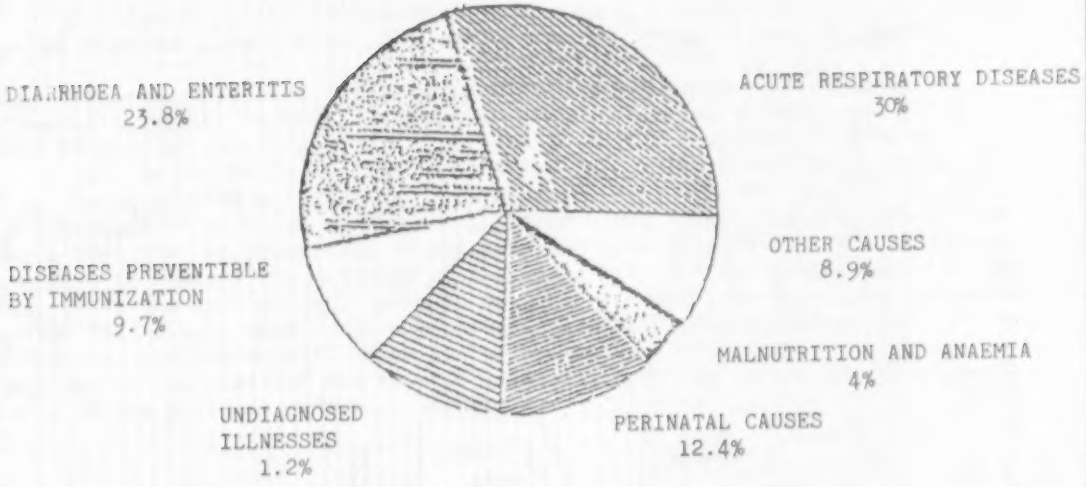


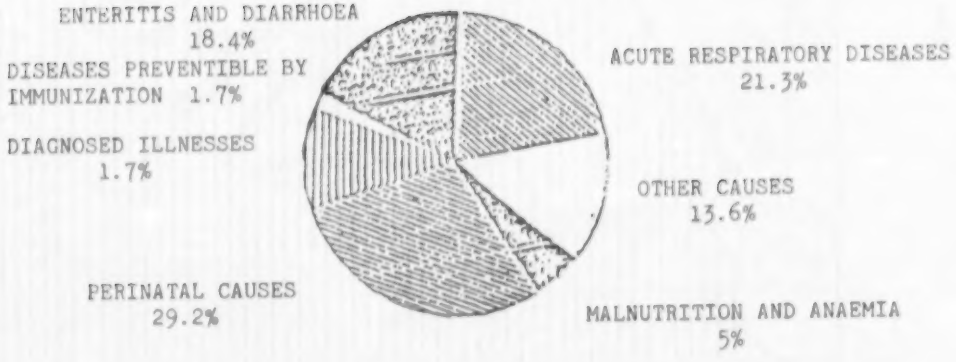
Figure 2

CAUSES OF INFANT DEATHS

VITAL STATISTICS FOR 1976 AND 1985



1976



1985

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